

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

**DOCKET NO. 2019-224-E
DOCKET NO. 2019-225-E**

In the Matter of:)
)
South Carolina Energy Freedom Act)
(House Bill 3659) Proceeding Related to)
S.C. Code Ann. Sections 58-37-40 and)
Integrated Resource Plans for Duke)
Energy Carolinas, LLC and Duke Energy)
Progress, LLC)
_____)

**RESPONSE IN OPPOSITION TO
MOTION TO STRIKE**

The South Carolina Coastal Conservation League (“SCCCL”), Natural Resources Defense Council (“NRDC”), Sierra Club, Southern Alliance for Clean Energy (“SACE”), and Upstate Forever (together, “the Environmental Parties”), Vote Solar, and Carolinas Clean Energy Business Association (“CCEBA”) (collectively, “the Intervenor”) jointly file this Memorandum in opposition to the Motion to Strike filed by Duke Energy Progress, LLC and Duke Energy Carolinas, LLC’s (together “Duke”).

There is an old Southern saying: “A hit dog will holler,” meaning that the target of criticism complains the loudest when the criticism is most on point. Duke’s Motion to Strike is such a case. In that motion Duke, stung by the surrebuttal testimony of witnesses Rachel Wilson, Kevin Lucas, John D. Wilson, Tyler Fitch, and Jim Grevatt, seeks not to counter that testimony or question those witnesses in cross-examination, but simply to remove the testimony and exhibits from the proceeding—and thus from the Commission’s consideration—entirely.

Duke demands that the Commission strike from the record the surrebuttal testimony of Rachel Wilson on behalf of CCEBA and the Environmental Parties, including a report of Synapse

Energy Economics, Inc. entitled *Clean, Affordable, and Reliable: A Plan for Duke Energy's Future in the Carolinas* ("Synapse Report") (Exhibit RSW-2), of which Ms. Wilson is the primary author. Duke further demands that all references to the Synapse Report by CCEBA witness Kevin Lucas and Vote Solar witness Tyler Fitch be stricken. Duke also seeks to strike the testimony of the Environmental Parties' witness John D. Wilson, including two reports prepared by Mr. Wilson: *Implementing All-Source Procurement in the Carolinas* (Exhibit JDW-2) and *Making the Most of the Power Plant Market: Best Practices for All-Source Electric Generation Procurement* (Exhibit JDW-3)(together, the "All-Source Procurement Reports"). Finally, Duke demands that the Commission strike a portion of the surrebuttal testimony of the Environmental Parties' witness Jim Grevatt,

Duke complains that the foregoing surrebuttal testimony, and particularly the Synapse Report, was unfairly sprung on Duke in surrebuttal, and should therefore be stricken from the record. Duke fails to note that Duke has been in possession of the original Synapse Report since March 1, 2021, and a corrected version with slight numerical adjustments since March 22, 2021, when the Synapse Report was filed with the North Carolina Utilities Commission ("NCUC") in that commission's proceeding on the 2020 Duke IRPs. Likewise, Duke has been in possession of witness John D. Wilson's Exhibits JDW-2 and JDW-3 since they were filed with the NCUC on March 1, 2021. Duke also fails to mention the obviously material fact that it has, in fact, conducted extensive discovery on the Synapse Report, and agreed in correspondence with opposing counsel that discovery in the parallel North Carolina proceeding could be used in this proceeding. (See Exhibit A, September 11, 2020 email between Duke counsel Heather Smith and the Environmental Parties' counsel Gudrun Thompson.) In the end, Duke's objections are meritless and it has in no way been prejudiced. If allowed, Duke's motion would only serve to keep relevant, material

information away from this Commission as it undertakes the difficult task of determining whether Duke's IRP represents the most reasonable and prudent means of meeting Duke's energy and capacity needs under the Energy Freedom Act, S.C. Code. § 58-37-40. The Motion should be denied.

BACKGROUND

Duke, as it has mentioned in discovery requests in this case, is "a single integrated power system covering two states." As such, Duke is required by both North and South Carolina to submit its proposed Integrated Resource Plans to each state's Public Utilities Commission. Duke filed its IRPs in North Carolina on September 1, 2020, and in South Carolina on or about November 13, 2020. As Duke is well aware, the IRPs filed on behalf of its operating entities DEC and DEP are identical. Consideration of these IRPs has commenced with largely parallel proceedings in both states.

In this proceeding, and pursuant to Commission Order No. 2020-715-E, Duke filed its direct testimony in support of its IRPs on November 13, 2020. Intervenor filed direct testimony on February 5, 2021. Duke filed rebuttal testimony on March 19, 2021, followed by Intervenor surrebuttal testimony, including the challenged reports, on April 15, 2021.

In North Carolina, consideration of the Duke IRPs has proceeded under NCUC Docket No. E-100, Sub 165. In that Docket, Duke filed its IRPs on September 1, 2020, with corrections filed on November 1, 2020. Vote Solar filed its initial comments on February 26, 2021. CCEBA and the NC Sustainable Energy Association ("NCSEA") filed joint initial comments on March 1, 2021, as did SACE, Sierra Club and NRDC. Included as exhibits in those initial comments were the

Synapse Report and both All-Source Procurement Reports, with minor corrections noted and filed in North Carolina on March 22, 2021.¹ All of these documents were served upon Duke.

Duke contends that it was deprived of a “meaningful opportunity” to review the Synapse Report or the All-Source Procurement Reports until they were filed with this Commission as part of surrebuttal testimony on April 15, 2021. Duke neglects to inform the Commission that it has been in possession of all of these reports – as well as Intervenors’ arguments based upon those reports – since March 1, 2021, when they were filed in North Carolina and served upon Duke. Duke has since engaged in extensive discovery in North Carolina, asking and receiving responses to multiple rounds of data requests.

ARGUMENT

Duke’s Motion to Strike should be denied. Consistent with its broad powers and duty to select the most reasonable and prudent resource plan for Duke, the Commission has broad discretion on matters of admissibility. The challenged testimony, including the three reports, is proper surrebuttal testimony responding to rebuttal testimony presented by Duke and, despite its complaints, Duke has not been deprived of the opportunity to review, consider and challenge these substantive critiques of its IRPs. Duke’s hearsay contentions are also meritless. Duke’s motion should be denied in full.

I. The Surrebuttal Testimony and Reports of Rachel Wilson and John D. Wilson are Proper and Should Not Be Stricken

A. The Commission has Broad Discretion in Admission of Testimony

Duke’s Motion to Strike seeks to treat the Public Service Commission like a jury in a criminal proceeding, to be protected from the influence of evidence submitted by the Intervenors.

¹ For records of these filings, please see NCUC Docket E-100, Sub 165, available at <https://starw1.ncuc.net/NCUC/portal.aspx>

Tellingly, Duke relies almost exclusively on criminal cases in an attempt to support its argument. However, these cases are inapposite because “[u]nlike a jury, the Commission is considered a panel of experts. *Hamm v. South Carolina Public Service Com'n*, 309 S.C. 282, 287, 422 S.E.2d 110, 113 (1992). . . The Commission, like a court, can hear testimony and give that testimony whatever weight it deems appropriate, as well as determine if it is reasonable and prudent to hear such testimony in deciding as to whether it may be inadmissible.” *In Re: Petition of Bridgestone Americas Tire Org., LLC for an Ord. Compelling Dominion Energy S.C., Inc. to Allow the Operation of A 1980 Kw Ac Solar Array As Authorized by State L.*, No. 2020-535, 2020 WL 4804794, at *7 (Aug. 14, 2020) (attached).

Here, the surrebuttal testimony of Rachel Wilson and John D. Wilson, as well as the Synapse Report and the All-Source Procurement Reports, are certainly relevant and enlightening on the subject of whether Duke’s proposed IRPs meet the standards of Act 62 and are in the best interest of South Carolina ratepayers. Their testimony will be subject to the crucible of cross-examination and examination by the Commissioners. At the close of that testimony, the Commission can determine for itself the weight that it gives that testimony in rendering its Orders in this docket. Duke’s effort to remove that testimony, before the Commissioners have a chance to judge for themselves its relevance and weight, should be denied.

B. The Challenged Testimony and Exhibits are Proper Surrebuttal.

Duke asserts that the testimony of Rachel Wilson and John D. Wilson, as well as the Synapse Report and the All-Source Procurement Reports (and all references to those reports by any other witness), represent improper inclusion of “new matters” on surrebuttal, and therefore should be stricken from the record of this docket and not considered by the Commission. However, as surrebuttal witnesses, Rachel Wilson and John Wilson are addressing issues raised in Duke’s

rebuttal testimony filed on March 19, 2021. Both witnesses presented testimony contradicting the approaches and criticism presented by Duke in rebuttal, and explained why Duke's approach is misguided and mistaken. Specifically, despite Duke's claims to the contrary, these witnesses' studies show that Duke could prepare and pursue a lower cost, more reasonable and prudent resource plan – a critical issue before the Commission

Under South Carolina law, even in a criminal proceeding where surrebuttal testimony is offered against a defendant, “[a]ny arguably contradictory testimony is proper on reply, and the trial judge properly exercised his discretion.” *State v. South*, 285 S.C. 529, 535, 331 S.E.2d 775, 779 (1985). *See State v. Stewart*, 283 S.C. 104, 107, 320 S.E.2d 447, 449 (1984) (“The State's evidence in its case in chief included appellant's full confession. Then, appellant presented alibi witnesses, friends and family, who accounted for all but approximately forty-five minutes of appellant's whereabouts at the time of the murder... We find no abuse of discretion on the part of the trial judge in allowing this testimony in reply as it is arguably contradictory of the testimony of appellant's witnesses that appellant was elsewhere during the commission of the murder.”)

As stated by this Commission, South Carolina law “limits reply testimony, which includes surrebuttal testimony, to that which responds to matters already raised.” Order 2020-439 (*In Re: Ann. Rev. of Base Rates for Fuel Costs of Duke Energy Progress, LLC*, No. 2020-1-E, 2020 WL 3620264, at *7 (June 30, 2020)(attached). In that Order the Commission denied Duke's Motion to Strike certain testimony of an intervenor's witness as not responsive to Duke witness testimony. *Id.* In so doing, **this Commission noted that “any arguably contradictory testimony is proper on reply.”** *Id.* (emphasis added). As explained below, the testimony and exhibits that Duke seeks to strike as improperly raising “new matters” are in fact proper responses to matters already raised.

1. Rachel Wilson's Testimony Contradicts the Testimony of Duke Witness Glen Snider.

Rachel Wilson's testimony and the Synapse Report are submitted to rebut the testimony of Duke Witness Glen Snider. In his rebuttal, Snider mounts a wholesale attack on the direct testimony filed by what he refers to throughout his testimony as "the Advocacy Groups" as self-interested and driven by concerns other than those that should determine the Commission's review of Duke's IRPs. Specifically, he opines that: the "Advocacy Groups approach the IRP proceedings with their own agendas, purposes and biases, *which do not include pursuing least cost planning and ensuring power supply reliability to meet load*, as addressed by DEC/DEP Witness Roberts." (Snider Rebuttal at 17, emphasis added.) He goes on to contend that "the Advocacy Groups' critiques of the IRPs appear to isolate and argue for certain input assumptions in a manner that advances specific outcomes, while ignoring other data sources and risks that do not support their desired outcomes." (Id.) "I am concerned that the Advocacy Groups' singular focus on increasing the deployment of these resources often omits the key considerations of system reliability and affordability." (Id. at 18.)

Rachel Wilson's testimony, and the Synapse Report itself, is directly responsive to Snider's attack on the Intervenor's direct testimony. In response to the contention that the Intervenor's position is driven by self-interest and not focused on the requirements of Act 62 or the realities of energy production, Wilson and Synapse provide an analysis that conclusively establishes that it is in fact Duke's IRPs that are insufficient and that other scenarios, taking into account the factors Snider claims others have not and are unwilling to consider, are more reasonable and prudent than Duke's. In response to Snider's assertions about the reasonableness of Duke's coal retirement analysis, the Synapse Report applies Encompass – the very tool that Duke will use in the future –

to show that the IRPs fail to meet the requirements of Act 62 in their analysis of coal retirement and the retirement dates proposed in the various scenarios advanced in the IRPs.

Rachel Wilson's testimony directly contradicts Snider by showing that the "reasonable assumptions" scenario set forth in the Synapse Report, which is line with what the Intervenor's direct witnesses had recommended, meets Duke's energy and capacity needs and maintains reliability while increasing energy efficiency, achieving earliest practicable coal retirement, and restricting additions of new gas resources. (Rachel Wilson Surrebuttal at 15-16, 18, 20.) She concludes that this "reasonable assumptions" scenario is (1) less expensive than the scenario that most closely resembles Duke's preferred scenario (and therefore affordable) and (2) maintains Duke's 17 percent planning reserve margin, (and therefore meets Sniders stated requirement for reliability).

Rachel Wilson's testimony, and the Synapse Report, are summed up on page 21 of her testimony: "[T]he Synapse modeling analysis shows that Duke can reliably and cost-effectively retire coal according to its 'earliest practicable' schedule and add increased quantities of efficiency, renewables, and storage well above what it has modeled in its 2020 IRPs." This modeling thus directly contradicts Witness Snider's assertions to the contrary as well as his aspersions that "Advocacy Groups" do not care about affordability and reliability. As such, the Rachel Wilson testimony and the Synapse Report are proper surrebuttal, and Duke's Motion to Strike should be denied.

2. References to the Synapse Report by Other Witnesses are Clearly Proper.

In addition to moving to strike the testimony of Rachel Wilson and the Synapse Report as an exhibit thereto, Duke also contends that any reference to the Synapse Report by witnesses Kevin Lucas and Tyler Fitch should be stricken as well. This argument flies in the face of Rule 703 of

the South Carolina Rules of Evidence, discussed above. Yet Duke moves to strike whole passages of Lucas's rebuttal, including all of Section III, in which Lucas discusses the merits of the Synapse Report and how the Synapse Report shows that Duke's IRP analysis could be improved upon through earliest coal retirement, less reliance on gas, and more and earlier deployment of renewables. Lucas attached the Synapse Report as Exhibit KL-S-1 and attached a second exhibit of proposed solar and storage additions based in part on the conclusions of the Synapse Report (Exhibit KL-S-2) and refers to both throughout his testimony to support and reinforce his earlier critiques of the IRPs. Duke seeks to exclude both exhibits.

As an expert, Kevin Lucas is able, under Rule 703, to rely in the formation of his opinions and inference on any materials made known to him before or during the hearing. His reference to the Synapse Report in his rebuttal testimony is clearly within the scope of such materials.

Duke witnesses spend large portions of their rebuttal testimony attempting to contradict the direct testimony of Kevin Lucas, particularly as to his analysis of Duke's overreliance on natural gas in its modeled scenarios, Duke's unreasonably low assumptions of gas pricing for the time period covered by their IRP, and their insufficient planned deployment of renewables. (See, *e.g.*, Snider Rebuttal at 68 – 78).

On page 146 of this rebuttal testimony, Snider claims:

...the earliest practicable coal retirements were predicated on expeditiously replacing the coal capacity, leveraging existing infrastructure to these retiring coal sites for access to transmission, natural gas pipeline, and cooling water, while eliminating additional transmission costs to retire the coal site without replacing generation at the site. This often resulted in natural gas build outs to accelerate these coal unit retirements. These caveats must be included in any discussion involving a plan with earliest practicable coal retirements schedule, which are notably left out of Witness Lucas's assessment. The Base Cases, conversely, prudently assume that the replacements for the coal retiring coal capacity are not necessarily simply replacements at the current sites, as replacement resource options

may materialize that are located elsewhere or distributed in nature.

Lucas's citation of the Synapse Report refutes Snider's claims and supports Lucas's earlier critiques of the IRPs, showing that there are indeed alternate modeling approaches that Duke could take to evaluate a resource plan that is, compared to Duke's base case, more affordable, equally reliable, and deploys more clean energy. As such, it directly contradicts the testimony of Snider and others, and supports Lucas's earlier testimony. It is therefore proper surrebuttal, and Duke's Motion to Strike it should be denied.

Likewise, the reference by Vote Solar witness Tyler Fitch to the Synapse Report on page 9, lines 12 through 19 of his surrebuttal testimony supplements his direct testimony in response to critiques by Duke witnesses Snider and Santoianni and shows that there are studies which establish that resource planning which limits the economic risk of dependence on gas identified in Fitch's testimony. The Synapse study is one of the referenced studies. As a clear response and contradiction to Duke's rebuttal testimony, such surrebuttal is entirely proper and the Motion to Strike should be denied.

3. John Wilson's Surrebuttal Testimony and Exhibits Propose Methods of Resolving Disputes and Contradictions Identified in Direct Testimony and Duke's Rebuttals.

Duke also objects and moves to strike the entirety of the surrebuttal testimony of witness John Wilson, as well as all three exhibits to his surrebuttal including the All-Source Procurement Reports. Duke argues that John Wilson's testimony is "a completely new argument (and unprecedented attempt) to fundamentally reshape the generation procurement process in South Carolina and is only tangentially related to the Companies' as-filed IRPs" (Motion to Strike at 14.) Duke maintains that John Wilson's testimony does not "directly respond to any new matters or issues presented in the Companies' rebuttal testimony." (Id. at 13.)

However, John Wilson's testimony, as he states early in his surrebuttal, is offered to respond to the rebuttal testimony of witnesses Snider, Wintermantel and Kalembe and to the very existence of a dispute on certain issues. (John Wilson at 2.) His testimony offers an "alternative approach to resolving many of the technical arguments raised in rebuttal testimony regarding the 2020 [IRPs] ... specifically...recommend[ing] moving to an all-source procurement process." (Id.)

In response to Duke's contention that John Wilson's testimony does not directly contradict any rebuttal testimony of any Duke witness, it must be noted that this Commission has previously noted in Order 2020-439 that "South Carolina case law limits reply testimony, which includes surrebuttal testimony, to that which responds to *matters already raised*." John Wilson's testimony is certainly aimed at matters already raised in prior testimony – and seeks to provide an approach that can resolve the contradictions and disputes that are evident in the direct and rebuttal testimonies submitted by the parties, and that will occupy this Commission throughout the weeks of this hearing.

This Commission should encourage, not discourage, responses that present solutions to disputes that become evident on rebuttal, rather than merely perpetuating the dispute and choosing sides. The approach suggested by Mr. Wilson could resolve many disputed issues of fact without extensive litigation, conserving the resources of the parties and the Commission, and should be carefully considered, rather than ignored. In its discretion, the Commission should allow the testimony of John Wilson and the All-Source Reports he submits as exhibits. Duke's Motion to Strike this testimony should be denied.

C. Duke Has Had a Meaningful Opportunity to Review and Conduct Discovery on the Synapse Report and the All-Source Procurement Reports, and No Unfair Surprise Has Occurred.

The bulk of Duke's motion consists of a complaint that the Intervenors have somehow hidden the ball on the Synapse Report and the All-Source Procurement Reports, waiting until surrebuttal to submit those exhibits and testimony relevant to them in order to "sandbag" Duke in advance of the hearing. This is not an accurate portrayal of the situation.

Duke argues that the submission of the reports as exhibits on surrebuttal is contrary to Act 62 that requires the Commission to "establish a procedural schedule to permit reasonable discovery after an integrated resource plan is filed in order to assist parties in obtaining evidence concerning the integrated resource plan, including the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties." S.C. Code Ann. § 58-37-40(C)(1). Duke contends that these submissions "prejudicially influence[] the decision-making of the Commission contrary to the express mandate of Act 62." (Motion to Strike at 12.)

As noted above, however, nowhere in the 15 pages of its motion does Duke alert the Commission to the fact that the Synapse Report and both All-Source Procurement Reports were served upon Duke – which is, after all, "a single integrated power system covering two states" – as part of the IRP evaluation currently ongoing before the North Carolina Utilities Commission. Duke received these documents on March 1, 2021, a full month and a half before the documents were filed as exhibits to surrebuttal testimony in this docket.

There simply cannot have been any prejudice to Duke's presentation of its case to be presented in surrebuttal with materials and critiques of its IRP that it had in its possession for over a month. The parallel proceedings in North and South Carolina involve the same IRPs, the same utilities, and most of the same Intervenors. In fact, as per the traditional practice on such matters,

the parties have agreed among themselves that discovery and data production in one state may, for purposes of convenience, be used in the other.

The lamentations contained in Duke's Motion to Strike are, at best, disingenuous. There has been no unfair surprise or violation of Act 62's requirement for reasonable discovery. Duke has availed itself of the opportunity in North Carolina to serve data requests related to the challenged materials, and the Intervenors have responded, in many instances prior to the filing of the surrebuttal testimony here in South Carolina and also prior to the commencement of the evidentiary hearing in this matter.

Moreover, the Commission may, in its discretion, allow for additional documents and testimony to be filed or presented after the hearing if the Commission believes at the end of the hearing that certain matters were not adequately addressed. If, after next week's hearing, the Commission believes that Duke was not able adequately to respond to the Synapse Report or the testimony and reports of John Wilson, then it may take steps to address that insufficiency if it so desires. Denial of the motion would not, however, result in unfair prejudice to Duke. There has been no unfair surprise. The Motion to Strike should be denied.

II. Duke Fails to Establish that the Challenged Testimony of Jim Grevatt and Exhibit JG-5 are Improper Hearsay.

With no supporting analysis, Duke asserts that certain surrebuttal testimony presented by Intervenors is improper hearsay (*see* Motion to Strike at 7). Duke states that it "move[s] to strike certain testimony and exhibits based upon the long-standing prohibition on hearsay testimony pursuant to Rule 802, SCRE, as discussed further below." However, the Motion to Strike contains no further discussion of hearsay or any analysis on this issue at all. Based upon the outline on pages 2 and 3 of the Motion to Strike, Intervenors surmise that Duke may have intended to refer to portions of the Surrebuttal Testimony of Jim Grevatt, witness for the Environmental Parties,

because he refers in his testimony to Exhibit JG-5, which is a copy of testimony and exhibits filed with the Public Service Commission of Colorado on July 3, 2017.

Duke fails to make any argument establishing that the exhibit actually is hearsay or that none of the established exceptions to the Hearsay Rule apply. To the extent that it is possible to discern what Duke's hearsay argument is, that argument is unavailing. In fact, the referenced testimony is *not hearsay*. "It is well settled that evidence is not hearsay unless offered to prove the truth of the matter asserted." *State v. Vick*, 384 S.C. 189, 199, 682 S.E.2d 275, 280 (Ct. App. 2009). "A statement that is not offered to prove the truth of the matter asserted should not be excluded as hearsay." *R & G Const., Inc. v. Lowcountry Reg'l Transp. Auth.*, 343 S.C. 424, 439, 540 S.E.2d 113, 121 (Ct. App. 2000).

Page 16, line 1 through 2 of the Grevatt testimony is a chart drawn from the testimony of Shawn M. White before the Colorado Public Service Commission regarding the potential and actual savings that PSCo could achieve through Demand Side Management ("DSM"). The exhibit, which is the full testimony of Shawn M. White in that Colorado proceeding, is offered for context, demonstrating that the concepts Mr. Grevatt offers in his testimony before this Commission have been presented in other states regarding other utility resource plans. It is not submitted as proof of the matters asserted in the attachment.

Further, Rule 703 of the South Carolina Rules of Evidence allows an expert to refer to and base his or her opinion or inference upon facts or data "perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence." Here, Mr. Grevatt is testifying as an expert, and is referencing and drawing inferences from proceedings and data presented regarding the performance of DSM measures imposed by

other states and utilized by other utilities. This is well within his expertise and the type of information one would expect to be relied upon in this context.

Because Duke has failed to establish that the referenced information is hearsay, and because Mr. Grevatt, as an expert, may rely upon this type of information in forming the opinions or inferences presented in his surrebuttal testimony, Duke's Motion to Strike Exhibit JG-5 and the chart on Page 16 of the Surrebuttal Testimony of Jim Grevatt should be denied.

CONCLUSION

What Duke's Motion to Strike represents is not, as Duke argues, an effort to preserve the integrity of the process imposed by Act 62 and prevent an allegedly unfair tactic. It is an attempt by Duke to eliminate competition not only in its market, but also in the presentation of evidence to this Commission. Rather than face the substantive critiques and reasonable alternatives presented by the Intervenors through cross-examination and the testimony of its own witnesses, Duke seeks to short-circuit the matter entirely, and ask the Commission to ignore the reports and the testimony that are so damaging to Duke's proposed IRPs.

For the reasons stated, the Intervenors respectfully request that this attempt be rejected, and that the Motion to Strike be denied in its entirety, so that the parties may present their full cases to the Commission and the Commission can receive the evidence and testimony necessary to make its determinations as to the adequacy of Duke's proposed IRPs. At a minimum, Intervenors suggest that, in order to exercise the requisite discretion, the Commission decide on the admissibility and weight of the challenged testimony after hearing it, at the conclusion of the hearing or in its final order. Should the Commission be inclined to consider Duke's Motion, Intervenors request oral argument.

Respectfully submitted this 23rd day of April 2021.

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